

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

██████████ 2015
Signature Confirmation

Client ID # ██████████
Request #717483

NOTICE OF DECISION

PARTY

██████████
C/O ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying her application for Long Term Care Medicaid benefits.

On ██████████ 2015, the Appellant requested an administrative hearing to contest the denial of the Long Term Care Medicaid benefits.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2015.

On ██████████ 2015, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████, Appellant's daughter, Power of Attorney ("POA")
██████████, Appellant's son
Felicia Andrews, Department's Representative
Miklos Mencseli, Hearing Officer

The Appellant was not present.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's application for Long Term Care ("LTC") Medicaid benefits as her assets exceed the program limit.

FINDINGS OF FACT

1. The Appellant passed away on [REDACTED] 2015. (Summary, Testimony)
2. The Appellant was a resident of Mystic Healthcare Rehab and Nursing Center facility. (Testimony)
3. On [REDACTED] 2015, the Appellant entered the facility from hospital which she entered on [REDACTED] 2015. (Testimony)
4. The Appellant initially was considered to be in the facility for short term rehab. (Testimony)
5. On [REDACTED] 2015, the Appellant's representatives were informed that the Appellant is now long term. (Testimony)
6. On [REDACTED] 2015, the Department received the Appellant's application for Medicaid long term care assistance. (Summary, Testimony)
7. The Appellant's asset is People's United Bank checking account # [REDACTED] (Exhibit 1: Checking statement dated [REDACTED] 2015 and [REDACTED] 2015)
8. The Appellant's daughter is a joint account holder on the checking account at People's United Bank. (Exhibit 1, Testimony)
9. The Appellant's account balance for the checking account was \$3,643.70. as of [REDACTED] 2015, the month of application. (Summary, Exhibit 1)
10. The Department subtracted the Appellant's income received in the month of [REDACTED] to determine a balance of \$2,280.96 (\$3,643.70 - \$648.00 Social Security benefits - \$675.77 pension - \$38.97 pension = \$2,280.96). (Summary, Exhibit 1, Testimony)
11. Based on the balance amount of \$2,280.96 the Department determined the Appellant was over the asset limit for ("LTC") Medicaid benefits. (Summary, Testimony)
12. On [REDACTED] 2015, the Department sent the Appellant a Notice of Denial. The denial reason was due to the value of your assets is more than the program limit. (Exhibit 3: NOA dated [REDACTED]-15)

13. The Appellant's People's checking account balance for [REDACTED] 2015 is \$6,017.48(\$7,380.22 highest balance - \$648.00 Social Security - \$675.77 pension - \$38.97 pension = \$6,017.48). (Exhibit 4: Checking statement dated [REDACTED]-15)
14. The Appellant's People's checking account balance for [REDACTED] 2015 is \$2,713.87(\$4,076.61 highest balance - \$648.00 Social Security - \$675.77 pension - \$38.97 pension = \$2,713.87). (Exhibit 5: Checking statement dated [REDACTED]-15)
15. The Appellant's People's checking account balance for [REDACTED] 2015 is \$3,727.90(\$5,090.64 highest balance - \$648.00 Social Security - \$675.77 pension - \$38.97 pension = \$3,727.90). (Exhibit 6: Checking statement dated [REDACTED]-15)
16. The Appellant's People's checking account balance for [REDACTED] 2015 is \$2,932.45(\$4,295.19 highest balance - \$648.00 Social Security - \$675.77 pension - \$38.97 pension = \$2,932.45). (Exhibit 1: Checking statement dated [REDACTED]-15)
17. The Appellant's Representatives purchased a funeral contract for \$7,385.20 on [REDACTED] 2015. (Exhibit 7: Funeral contract)
18. The Appellant's POA wrote a check from the People's account on [REDACTED] 2015 for \$1200.00 for the funeral balance. (Exhibit 2: check#2612 dated [REDACTED]-15)
19. The Appellant's POA wrote a check on [REDACTED] 2015 for \$1200.00 from her personal checking account to repay her brother. (Exhibit 2: chek#6736 dated [REDACTED]-15)
20. On [REDACTED] 2015, the check#2612 cleared the People's checking account. (Exhibit 2: People's checking account statement)
21. There was a delay in submitting the check to the funeral home. (Testimony)
22. Subtracting the \$1200.00 from the Appellant's highest balance in [REDACTED] 2015 after subtracting her income would leave a balance of \$1,732.48(\$2,932.45 - \$1200.00 = \$1,732.48)
23. The Appellant's representatives are looking for the pick-up date of [REDACTED] 2015. (Testimony)
24. The Appellant's representatives did not receive a bill from the facility until the end of [REDACTED] 2015. (Testimony, Hearing request Attachments with statement date of [REDACTED] 2015 from Mystic Healthcare Rehab)

25. The Appellant's representatives would have spent down her assets had the facility billed them timely. (Testimony)
26. The Appellant's representative unbilled liability total is more than the Appellant's assets. (Testimony, Hearing request attachments)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes, authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual (UPM) § 4005.05 (B)(1) provides that the Department counts the assistance unit's equity in an asset toward the asset limit if the asset is not excluded by state or federal law and is either: available to the unit; or deemed available to the unit.
3. UPM § 4005.05 (B)(2) provides that under all programs except Food Stamps, the Department considers an asset available when actually available to the individual or when the individual has the legal right, authority or power to obtain the asset, or to have it applied for, his or her general or medical support.
4. UPM § 4005.05 (D) provides that an assistance unit is not eligible for benefits under a particular program if the units equity in counted assets exceeds the asset limit for the particular program.
5. The Department correctly determined that the People's United Bank checking account was an available asset and that the applicant had the legal right, authority or power to obtain the asset.
6. UPM § 4010.10 provides for assets held jointly.

A. General Principles

1. Subject to the limitations described below, personal property such as a bank account held jointly by the assistance unit and by another person is counted in full toward the asset limit.
3. An individual other than the spouse of an assistance unit member is considered merely the record owner of an account or similar asset held jointly with the unit member.
 - a. This is true regardless of the time period the individual has been joint holder of the asset.

7. UPM 4030.05 provides for treatment of assets and specific types of assets.

A. Types of Bank Accounts

Bank accounts include the following. This list is not all inclusive.

1. Savings account;
2. Checking account;
3. Credit union account;
4. Certificate of deposit;
6. Patient account at long-term care facility;
7. Children's school account;
8. Trustee account;
9. Custodial account.

B. Checking Account

That part of a checking account to be considered as a counted asset during a given month is calculated by subtracting the actual amount of income the assistance unit deposits into the account that month from the highest balance in the account for that month.

8. The Department correctly determined that the People's United Bank checking account is an available asset and counted toward the asset limit.
9. The Department incorrectly determined the amount counted toward the asset limit as it did not use the highest balance in the account to subtract the Appellant's income.
10. The corrected amount is \$2,932.45
11. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1600.00.
12. UPM § 4005.15 provides that in the Medicaid program at the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit.
13. UPM § 1560.10 (A) provides for begin dates of Medicaid Assistance. The beginning date of assistance for Medicaid may be one of the following: the first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month.
14. The Department correctly determined that the Appellant's is not Medicaid eligible as her asset exceeded the limit for the program.

15. The Appellant is not eligible for any retro months as her asset exceeds the program limit.

DISCUSSION

The Department cannot grant eligibility until the first day of the month in which the applicant reduces its equity in counted assets to within the asset limit. The Department correctly determined the Appellant is not asset eligible.

You do not qualify for any month in which your assets are greater than \$1,600. Medicaid help begins in the month that your assets meet this limit. The Department cannot determine eligibility on an unbilled liability. It is unfortunate the facility did not properly advise and then bill the Appellant's representatives timely.

DECISION

The Appellant's appeal **is denied**.


Miklos Mencseli
Hearing Officer

C: E. Tyler Nardine, Operations Manager, DSS R.O. #50 Middletown

RIGHT TO REQUEST RECONSIDERATION

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue Hartford, CT 06105.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The 45 day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or the Commissioner's designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.